

SENATE BILL 1728

By Crowe

AN ACT to amend Tennessee Code Annotated, Title 7;
Title 9 and Title 13, relative to economic
development.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 7-53-305(e)(1)(H), is amended by deleting the language "governing body" and substituting instead the language "corporation".

SECTION 2. Tennessee Code Annotated, Section 7-53-305, is amended by deleting subsection (b) in its entirety and substituting instead the following language:

(b)

(1)

(A) The corporation has the authority to negotiate, accept, or waive from any of the corporation's lessees payments in lieu of taxes only upon receipt of a formal delegation of such authority from the municipality or municipalities that formed the corporation. Any such authorization shall be granted only upon a finding by the municipality or municipalities that the payments or waiver of the payments are deemed to be in furtherance of the corporation's public purposes. The legislative body of the municipality or municipalities making the delegation may require the corporation to submit any payments in lieu of taxes or similar agreement for approval.

(B) No contract, lease, understanding, or other agreement of any kind, including any renewal or extension of the agreement, entered into by a municipality or corporation to which such authority has been

delegated shall result in a corporation's lessee making payments in lieu of taxes to any taxing jurisdiction less than the amount of the taxes that would otherwise be payable to such taxing jurisdiction for a period that is greater than twenty (20) years plus a reasonable construction or installation period of not to exceed three (3) years from the date of such contract, lease, understanding, or other agreement, unless both the commissioner of economic and community development and the comptroller of the treasury have made a written determination that such agreement is in the best interest of the state.

(C) The corporation shall attach to each agreement an analysis of the costs and benefits of the agreement, in such manner and under such conditions as shall be prescribed by the commissioner of economic and community development or the commissioner's designee.

(2) With regard to any project located within an area designated as the center-city area by a municipality in which there has been created a central business improvement district pursuant to the Central Business Improvement District Act of 1971, compiled in chapter 84 of this title, the amount of such payments shall not be fixed below the lesser of:

(A) Ad valorem taxes otherwise due and payable by a tax-paying entity upon the current fair market value of the leased properties; or

(B) Ad valorem taxes that were or would have been due and payable on the leased properties for the period immediately preceding the date of their acquisition by the corporation.

(3) The minimum payments in subdivisions (b)(2)(A) and (B) shall not be applicable to an eligible headquarters facility.

SECTION 3. Tennessee Code Annotated, Section 7-53-101, is amended by adding the following language as new appropriately designated subdivisions:

() "Payments in lieu of taxes" means any amount negotiated separately from rent that offsets the loss of property tax revenue associated with the exemption of the freehold or fee simple interest of the corporation;

() "Rent" means a charge for use of property, including the lessee's obligation to repay debt issued or assumed by a lessor, or rent implied by the lessee's stated obligation to construct improvements;

() "Waiver" means the relinquishment of a legal right to payments in lieu of taxes. A waiver includes an express or implied waiver, and an implied waiver includes, but is not limited to, silence in a lease agreement between a corporation and a lessee as to any payments in lieu of taxes due to any taxing jurisdictions;

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.